


STAT

NOTE FOR: 

FROM: 

SUBJECT: Release of MKNAOMI Material

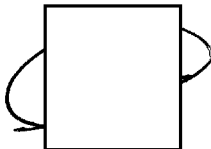
Health & Scientific Resources

1. OLC received a request from Walter Sheridan, staff member, Senate Judiciary Subcommittee on ~~Administrative~~ Practice and Procedure (Senator Kennedy, Chairman) on 8 February 1977 for Agency documents concerning project MKNAOMI which the Agency provided to the Church Committee.

2. Two documents were provided to Mr. Sheridan in response to his request on 8 March 1977: (1) Summary Report on CIA Investigation on MKNAOMI and (2) Contingency Plan for Stockpile of Biological Warfare Agents. Both documents had previously been supplied to the Church Committee and had been declassified by Director William Colby on 15 September 1975.

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ILLEGIB



As discussed in today's session, this is what we know about how material went public. I am told there may have been an FOIA query -

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November 4, 1975

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that question, the report said, "Is worded in such a way as to leave serious doubt as to the meaning of any results obtained."

"By repeating the point that the agency would be 'additional' four times in the course of the question, this item may well have focused the concerns of the respondents on the size of Government bureaucracy," it said. "It is consequently very difficult to know if respondents were reacting to the Consumer Advocacy or if they were expressing their dismay with the complexity and size of government."

The size of the adverse reaction to the question, it added, may have been caused by the 15 preceding questions about other Government agencies.

"It is probable therefore that the results show people are opposed to more bureaucracy, not necessarily that they are opposed to the Consumer Protection Agency," it said.

CIA WINS ONE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on September 17 I placed in the CONGRESSIONAL RECORD correspondence that I had with the mayor of the city of New York, the chairman of the Metropolitan Transit Authority and Director Colby of the CIA stating my astonishment and anger at the news report that the CIA had used the New York City subway system as a trial model for a study on the vulnerability of subway riders to covert attack. Since that time I have had additional correspondence which I am also setting forth which establishes that the CIA was not the culprit. Director Colby in his recent letter to me states that, "the CIA at no time experimented with gas simulants in New York City subways. Neither did any employee of CIA participate in such an experiment, nor did this Agency request that such an experiment be carried out." The CIA's statement is confirmed by a letter that I have received from the corporation counsel of the city of New York which reports, "It appears that it was the Army and not the CIA that conducted this experiment in the subway." With all of the criticism, well warranted in my judgment of the CIA, of other covert and illegal activities that it engaged in, it is nice to report that one of the charges against it is unfounded.

As you will note from my letter of November 3 to Judith Grad of the corporation counsel office, it is in my judgment, "even more imperative now that we know that other Federal departments were involved in this testing that the illegality, if any, be firmly established."

Mr. Speaker, I am of the opinion that those who violate the law, including U.S. officials, should be prosecuted, and if convicted, punished. It would be a salutary example for the rest of the country, in particular to Government officials who sometimes think they are above the law, and then the ordinary citizen will ap-

plying to those in high places as well as low.

In order to set the record straight, I am placing the entire correspondence which I have had on this matter into the CONGRESSIONAL RECORD. This matter cannot be considered closed until all of the illegalities are made a matter of public record and those who violated the law punished. Only the prosecution of those who violated the law can deter future violations by Government agencies of our citizen's rights.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 17, 1975.

Hon. ABRAHAM BEAME,
Mayor, City Hall,
New York, N.Y.

DEAR MR. MAYOR: I read in today's New York Times that the CIA had used the New York subway system as a "trial model" by flooding the subways with a "harmless simulant of a disease carrying gas." I would appreciate knowing whether the records of the City of New York indicate that anyone in authority was ever apprised of this experiment by the CIA in advance or at any time. I also urge that you condemn by letter to Director Colby the use of the subways for that purpose.

In addition I ask that you ascertain from the Corporation Counsel whether the CIA may have violated the City or State law in undertaking such an experiment without lawful permission, if that is the case, from either the City of New York or the MTA.

Sincerely,
EDWARD I. KOCH.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 17, 1975.

DAVID L. YUNICH,
Chairman, Metropolitan Transit Authority,
1700 Broadway, New York, N.Y.

DEAR CHAIRMAN YUNICH: I read in today's New York Times that the CIA had used the New York subway system as a "trial model" by flooding the subways with a "harmless simulant of a disease carrying gas." I would appreciate knowing whether the records of the MTA indicate that anyone in authority was ever apprised of this experiment by the CIA in advance or at any time. I also urge that you condemn by letter to Director Colby the use of the subways for that purpose.

Sincerely,
EDWARD I. KOCH.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 18, 1975.

Hon. WILLIAM E. COLBY,
Director, Central Intelligence Agency, Washington, D.C.

DEAR DIRECTOR COLBY: I read with shock and anger the report in today's New York Times that the CIA had undertaken an experiment using New York City's subways in which the flooded the subway system with a "harmless simulant of a disease-carrying gas."

I should like to know whether permission was secured from the City of New York or the Metropolitan Transit Authority in advance of your undertaking such a test and if not, why not. In addition I would like you to know that I consider such testing under such circumstances to be an outrage. This action gives added reason to those who condemn the CIA out of hand.

I am one of those who believes the CIA has a function to engage in intelligence gathering overseas; unfortunately it has not restricted itself to its legal functions but has in fact engaged in illegal activities which must be condemned.

I am enclosing a copy of the report that the CIA prepared on this

of the experiment provided any of the information bearing thereon.

Sincerely,

EDWARD I. KOCH.

THE CITY OF NEW YORK,
LAW DEPARTMENT,
New York, N.Y., October 15, 1975.

Hon. EDWARD I. KOCH,
House of Representatives,
New York, N.Y.

DEAR MR. KOCH: This letter is in reply to a request by Mr. Menchel of your office asking for a written report as to CIA involvement in a test of a simulant disease carrying gas in the New York City subways.

After talking with F.A.O. Schwartz, 3rd counsel to the Senate Select Committee on Intelligence and Robert Andrews, counsel to the Defense Department, it appears that it was the Army and not the CIA that conducted this experiment in the subways and it was admitted in a report of the Army, which was in the possession of the CIA, that this test was done covertly.

Additionally, Mr. Andrews informed me that the U.S. Department of Agriculture and the Surgeon General of the Public Health Service knew of this testing.

Jacques Nevard, Public Affairs Department of the Transit Authority further informed me that no one in the Transit Authority knew of this study and testimony to this effect was given by John G. deRoos, Senior Executive Officer to the Transit Authority, at a transportation committee meeting of the City Council, chaired by Carol Greitzer on September 19, 1975.

We are continuing our investigation into this matter and will inform you if any additional information can be ascertained.

Sincerely,

JUDITH GRAD,
Assistant in Charge,
CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., October 30, 1975.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in response to your letter of 18 September 1975 in which you stated that you were shocked and angered by the report in The New York Times that the Central Intelligence Agency had experimented with simulated disease carrying gas in the subways of New York City. Since your letter was dated 18 September, I assume you were referring to the article by Nicholas M. Horrocks dated 16 September and appearing in the 17 September edition of The New York Times.

The CIA at no time experimented with gas simulants in New York City subways. Neither did any employee of CIA participate in such an experiment, nor did this Agency request that such an experiment be carried out. Since this Agency had no part in the experiment, obviously we did not seek permission to perform such an experiment from the City of New York or the Metropolitan Transit Authority.

Perhaps a brief explanation of this Agency's relationship with the organization that did perform the New York City subway experiment would help to further clarify the matter. At the time of the above mentioned experiment, this Agency had a contract with a U.S. Army unit at Fort Detrick known as the Special Operations Division. As a result of the contract, this Agency contributed funds to that Army unit and received in return reports of studies being made by the organization. This enabled CIA specialists to stay abreast of developments in the experimentation done by the Fort Detrick unit. This Agency received a report of the subway matter was mentioned in an internal CIA

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Concerning the article in the report received from the Fort Detrick unit was returned and hence is no longer in our possession. Enclosed is a copy of the applicable portions of the above mentioned internal CIA memorandum. If, after reading the enclosure you still have questions, you may want to examine the record of the Senate Select Committee's hearing of 16 September wherein the matter is more fully explained.

I am at a loss to explain why Mr. Horrocks' article contained such a gross inaccuracy. He was present at the public hearing held by the Senate Select Committee on 16 September. I can only surmise that Mr. Horrocks failed to grasp the testimony at the hearing. This is borne out by a second article written two days later by Mr. Horrocks on the same subject. This second article was datelined 18 September and appeared in the 19 September edition of The New York Times. In the second article, Mr. Horrocks states that a witness to a hearing held by the Senate Select Committee on 18 September stated that the New York City subway experiment was performed on behalf of the Army and the Central Intelligence Agency. The record clearly demonstrates that the witness did not make that statement.

Your letter to me was published in the Congressional Record of 17 September 1975. I trust, out of fairness, you will want to have his reply similarly published.

Sincerely,

W. E. Colby,
Director.

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 3, 1975.
GARTH GRAD,
Assistant in Charge, Operations & Legislative
Division, Law Department, Municipal
Building, New York, N.Y.

DEAR JUDY: I have your letter of October 15 in which I thank you. I am appreciative of the additional information.

It is, in my judgment, even more imperative now that we know that other Federal departments were involved in this testing at the illegality, if any, be firmly established. It may be that the statute of limitations precludes any criminal pursuit of this matter but if that is not the case and the law permits prosecution, I urge that prosecution be initiated.

Therefore, I would very much appreciate your expediting the research into the legality and provide me with the legal opinion which would be the basis for prosecution.

All the best,
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AMERICAN WORKERS NEED LOWER NOISE LEVELS AT THE WORK PLACE

Mr. GAYDOS. Mr. Speaker, during last June and July, the Occupational Safety and Health Administration conducted public hearings on proposed noise standards.

Unfortunately, the confrontation of opposing views over the question of the proper noise levels at which future generations of working men and women could work, attracted little interest on the daily press.

The sides in this issue are clearly drawn. The Occupational Safety and Health Administration and employers claim workers can tolerate 90 decibels of noise. Labor unions and the Environmental Protection Agency claim workers should not be exposed to noise levels in excess of 85 decibels.

The testimony of some of America's leading labor leaders at these hearings bears witness to the fact that American trade unions have been and still are the defenders of the well-being, not only for their membership, but countless others who have no unions to represent them.

The president of the United Steelworkers of America, I. W. Abel, said that the proposed Labor Department standard of 90 decibels for an 8-hour working day is a "direct violation" of its mandate under the law to protect workers from material impairment.

Leonard Woodcock, the United Auto Workers leader, called occupation noise "a major health problem in this country, the eradication of which is comparable in every way to the conquering of the important infectious diseases in this century."

While the difference between 85 and 90 decibels might appear to some to be a mere numbers game, the potential hearing loss to millions of American workers is at stake in this debate.

The October 1975 issue of the American Federationist magazine contains an important article which tells the history of the long struggle by American working men and women for a safe and healthy occupational noise level.

This article by the distinguished labor editor and writer, Harry Conn, called "Quieting Ear Pollution" tells of the long and intricate struggle for a safe and healthier noise level which has been waged by the trade union movement and many environmental scientists.

Additionally, the July-August 1975 issue of UAW Solidarity reports on the OSHA hearings and what is at stake for the American worker.

Another insight into the OSHA hearings is provided by the article of John Herling in the Washington Post of July 27, 1975.

I insert in the Record these articles so that Members can be informed of the significance of the proposed OSHA noise levels.

QUIETING EAR POLLUTION (By Harry Conn)

A very few years ago, occupational noise was impairing the hearing of millions of workers and literally killing tens of thousands of others—but there was a relative silence on the problem.

True, since the 18th century there has been a growing body of scientific opinion warning of the lethal impact of noise. But noise, unpopular and unwanted, was reluctantly accepted as a fact of life in the nation's workplaces, a grim byproduct of the industrial revolution.

In the last four years that has changed—and much has happened. There is no appreciable evidence that noise's killer qualities have been substantially reduced, but reaction against noise has become loud and clear. Trade union staffs now have a number of experts on noise, mostly young people in their 20s and 30s. Working with authorities from the scientific community and with some cooperative government agencies, they have compiled an impressive body of research and data to support their battle for an 85-decibel standard limited on noise over an eight-hour workday.

The decibel (dB) standard by which noise is measured is based on the magnitude of pressure waves in the air. The loudest audible sound would be designated 0 dB. In addition, there are three frequencies used in

measurement, and the one evaluating the effect of sound on people is the A scale. So, in measuring sound or noise in the workplace, dBA is the basis of measurement.

No federal standards or levels were in effect for occupational noise until the waning days of the Eisenhower Administration. Secretary of Labor James P. Mitchell proposed a 90 dBA level for all work under the Walsh-Healey Public Contracts Act for an eight-hour work period.

Labor generally believed this was too high and many acoustical scientists concurred that this level imperiled workers. However, for several years there was no real challenge to the Mitchell standard.

In 1962, a new Labor Secretary, W. Willard Wirtz, recommended that noise limits under Walsh-Healey be set at 85 dBA. The proposal won immediate support of organized labor and others in government and medicine. But opposition from industry was vocal and Wirtz delayed the effective date of the limit for five years.

On Jan. 17, 1969, three days before he and President Johnson left office, Wirtz published in the Federal Register an 85 dBA noise level regulation under Walsh-Healey. The effective date was set for Feb. 12, 1969. Three days before Feb. 12, Nixon's Labor Secretary, George P. Shultz, issued an order postponing the effective date until May 17, 1969.

For three days workers employed in industries working on government contracts were under the 85 dBA limit. Then, on May 20, Shultz officially returned the Walsh-Healey noise standard to 90 dBA.

With the adoption of the Occupational Safety and Health Act of 1970, the 90 dBA level for noise exposure was continued. The same standard exists for the federal Coal Mine Health and Safety Act of 1969, the Construction Safety Act and the Longshoremen's and Harbor Workers' Compensation Act.

Pressures on the Secretary of Labor for a revision of the noise standard have been extensive. However, continued opposition from management—citing both the lack of technical feasibility and the cost—has been just as heavy.

Noise, of course, varies from industry to industry. A consultant to the Labor Department has estimated that 60 to 70 percent of production workers, or 10 million employees, now face a hazardous overexposure to noise. He says that 100 percent of lumber and wood products workers and 95 percent of textile mill workers are over-exposed. The dimension of the problem is outlined by adding the millions of other workers in construction, mining and transportation who are also over-exposed.

Under the Occupational Safety and Health Act, the Secretary of Labor may take certain steps to revise the noise standard. First, he must appoint a Standards Advisory Committee on noise, which must report to him in 270 days.

A 15-member committee was named, including four representatives from labor, four from management. One of the labor members, Joseph K. Hafkenschie, research associate of the Communications Workers, believes that the committee was in effect stacked because most of the professional members serve as consultants to business and the government members were unlikely to break from the Administration position.

The final vote was 9 to 6 in favor of the 90 dBA standard. The dissents included the four from labor, the Department of the Army and, in part, the National Institute for Occupational Safety and Health, the research arm of the Occupational Safety and Health Administration, which strongly defended the 90 dBA. The Environmental Protection Agency, though it has primary responsibilities in the area of noise, was not even represented on the committee that supports the 85 dBA.

As required under the law, the Secretary published the proposed standard in the Fed-

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Director, Central Intelligence Agency, Washington, D.C.

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Additionally, Mr. Andrews informed that the U.S. Department of Agriculture the Surgeon General of the Public Health Service knew of this testing. Jacques Nevard, Public Affairs Director of the Transit Authority further informed that no one in the Transit Authority knew of this study and testimony to effect was given by John G. deRosier, Executive Officer to the Transit Authority at a transportation committee meeting of the City Council, chaired by Carol Gr on September 18, 1975.

We are continuing our investigation of this matter and will inform you if additional information can be ascertained.

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JUDITH GRAD,
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Perhaps a brief explanation of the relationship with the organization performing the New York City subway experiment would help to further the matter. At the time of the above experiment, this Agency had a contract with a U.S. Army unit at Fort Detrick, North Carolina, to conduct studies being made of the Special Operations Division. As the contract, this Agency contributed to that Army unit and received reports of studies being made of the organization. This enabled CIA to stay abreast of developments in the field of biological warfare. This Agency received a report of an experiment from the Fort Detrick matter was mentioned in an in-

Concerning the various aspects of the report received from the Port of New York and New Jersey, it was returned and hence is no longer in our possession. Enclosed is a copy of the applicable portions of the above mentioned internal CIA memorandum. If, after reading the enclosed, you still have questions, you may want to examine the record of the Senate Select Committee's hearing of 16 September wherein the matter is more fully explained.

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W. E. COLBY,

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HOUSE OF REPRESENTATIVES,

Washington, D.C., November 3, 1975.

JOHN GRAB,

Assistant in Charge, Opinions & Legislative Division, Labor Department, Municipal Building, New York, N.Y.

DEAR JIM: I have your letter of October 15 to which I thank you. I am appreciative of the additional information.

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No federal standards or levels were in effect for occupational noise until the waning days of the Eisenhower Administration. Secretary of Labor James P. Mitchell proposed a 90 dBA level for all work under the Walsh-Healey Public Contracts Act for an eight-hour work period.

Labor generally believed this was too high and many acoustical scientists concurred that this level imperiled workers. However, for several years there was no real challenge to the Mitchell standard.

In 1954, a new Labor Secretary, W. Willard Wirtz, recommended that noise limits under Walsh-Healey be set at 85 dBA. The proposal won immediate support of organized labor and others in government and medicine. But opposition from industry was vocal and Wirtz delayed the effective date of the limit for five years.

On Jan. 17, 1969, three days before he and President Johnson left office, Wirtz published in the Federal Register an 85 dBA noise level regulation under Walsh-Healey. The effective date was set for Feb. 12, 1969. Three days before Feb. 12, Nixon's Labor Secretary, George P. Shultz, issued an order postponing the effective date until May 17, 1969.

For three days workers employed in industries working on government contracts were under the 85 dBA limit. Then, on May 20, Shultz officially returned the Walsh-Healey noise standard to 90 dBA.

With the adoption of the Occupational Safety and Health Act of 1970, the 90 dBA level for noise exposure was continued. The same standard exists for the federal Coal Mine Health and Safety Act of 1969, the Construction Safety Act and the Longshoremen's and Harbor Workers' Compensation Act.

Pressures on the Secretary of Labor for a revision of the noise standard have been extensive. However, continued opposition from management—citing both the lack of technical feasibility and the cost—has been just as heavy.

Noise, of course, varies from industry to industry. A consultant to the Labor Department has estimated that 60 to 70 percent of production workers, or 10 million employees, now face a hazardous overexposure to noise. He says that 100 percent of lumber and wood products workers and 95 percent of textile mill workers are over-exposed. The dimension of the problem is outlined by adding the millions of other workers in construction, mining and transportation who are also over-exposed.

Under the Occupational Safety and Health Act, the Secretary of Labor may take certain steps to revise the noise standard. First, he must appoint a Standards Advisory Committee on noise, which must report to him in 270 days.

A 15-member committee was named, including four representatives from labor, four from management. One of the labor members, Joseph E. Harkenschiele, research associate of the Communications Workers, believes that the committee was in effect stacked because most of the professional members serve as consultants to business and the government members were unlikely to break from the Administration position.

The final vote was 9 to 6 in favor of the 90 dBA standard. The dissents included the four from labor, the Department of the Army and, in part, the National Institute for Occupational Safety and Health, the research arm of the Occupational Safety and Health Administration, which strongly defended the 90 dBA. The Environmental Protection Agency, though it has primary responsibilities in the area of noise, was not even represented on the committee. EPA supports the 85 dBA.

Under the law, the Secretary published the proposed standard in the Fed-

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